

QUANTITY: 100 1-oz. btls., 115 3-oz. btls., and 50 8-oz. btls. of *Devine's Zina-Ray oil* and 2,650 *inhalers* at Kansas City, Mo., in possession of Cleo Cissell.

SHIPPED: 12-30-54, from Chicago, Ill.

LABEL IN PART: (Btl.) "Devine's Zina-Ray Oil Aids in the Relief of Coughs and Colds, Stiff Joints and Sore Muscles Due to Overexertion or Fatigue Contains—Eucalyptus Oil, Menthol and Gum Camphor"; (inhaler) "Devine's \* \* \* Inhaler \* \* \* Insert a few drops of Devine's Zina-Ray Oil into the end of inhaler."

ACCOMPANYING LABELING: Circulars designated "Pain Sufferers Don't Take Dope For Muscular Aches and Pains Due To Over Exertion and Fatigue Use Devine's Zina-Ray Oil."

RESULTS OF INVESTIGATION: The *Devine's Zina-Ray oil* consisted of a yellow oil having the odor of eucalyptus, camphor, and menthol. The *inhaler* consisted of glass tubing approximately 70 millimeters long and 12 millimeters in diameter. One end was constricted to an opening of 5 millimeters in diameter, and the other end was closed with a piece of cork containing a small hole. The tube contained a small piece of unmedicated cotton.

LIBELED: On or about 3-18-55, W. Dist. Mo.

CHARGE: 502 (f) (1)—the labeling of the *Devine's Zina-Ray oil* and the *inhalers*, while held for sale, failed to bear adequate directions for use in the relief, prevention, and treatment of the conditions for which such articles were intended, namely, in the treatment and prevention of sinusitis and colds, in the treatment of bronchitis, hay fever, arthritis, stiff joints, bursitis, earache, and neuralgia, in the prevention of flu and pneumonia, and for the relief of all aches and pains of the body, which were the conditions for which the articles were intended and for which they were offered orally at Kansas City, Mo., by Cleo Cissell, a representative of the shipper, Devine's Remedies, Inc., Chicago, Ill.

DISPOSITION: 4-29-55. Default—destruction.

4893. Atomotrone device (2 seizure actions). (F. D. C. Nos. 37979, 37980. S. Nos. 9-393 M, 9-398 M, 14-914/5 M, 14-960 M, 14-964 M., 15-448/53 M, 15-458 M, 15-561/8 M, 15-576/8 M.)

QUANTITY: 40 *Atomotrone devices* at Hawthorne and elsewhere within the Southern District of California; and, in addition, 40 *Atomotrone devices* at Salinas and elsewhere within the Northern District of California.

SHIPPED: Between 12-1-54 and 5-23-55, from Dallas and McKinney, Tex.

ACCOMPANYING LABELING: Pamphlets entitled "The Atomotrone" and "Testimonials by Users of The Atomotrone," pads of forms entitled "Sale Agreement," and individual testimonial letters.

RESULTS OF INVESTIGATION: The *Atomotrone device* consisted of a metal cabinet containing an electrically operated sunlamp positioned in such a manner that light emanating from the lamp would fall on jugs of water placed in the cabinet. Several sheets of colored glass were interposed between the lamp and the jugs. The device contained also a one-tube radio wave generator.

In operation, jugs of tap water were placed in the device and subjected to the "action" of the rays from the sunlamp and the radio waves generated by the one-tube transmitter. According to the accompanying labeling, ingestion of water treated in the device was effective in the treatment of a number of disease conditions.

**LIBELED:** 5-24-55, S. Dist. Calif. and N. Dist. Calif.

**CHARGE:** 502 (a)—the labeling of the *Atomotrone devices*, when shipped and while held for sale, when taken as a whole, as well as through specific claims, and in the setting in which it was presented, contained false and misleading representations and suggestions that the devices provided an adequate and effective treatment for the following conditions: Acidosis, anemia, apoplexy stroke, arthritis, bad health, baldness, blindness, Bright's disease, including chronic Bright's disease, congenital Bright's disease, and incurable Bright's disease, cancer, cardiac paralysis, cataracts, chronic disease, chronic indigestion, colonic cancer, colon spasm, deafness, diabetes, dropsy, eczema, enlarged heart, excessive menstrual bleeding, fibroid tumor of uterus, frequent colds, gallstones, gas, glandular deficiency, goiter, growths in stomach and rectum, hacking cough, heart attack, heart disease (all types), heart trouble, heart valve disease, hemorrhages, hemorrhoids, high blood pressure, high fevers, hypertension, indigestion, kidney disease, kidney stones, leg pains, low blood pressure, menstrual cramps, nausea, nephritis, nervous exhaustion, nervousness, numbness, pains in abdomen, arms, back, chest, heart, hips, liver, neck, shoulders, and stomach, palpitation of heart, paralysis, paralysis agitans, penicillin poisoning, pernicious anemia, postoperative lack of energy and vitality, pressure around heart, prostatitis, pus in the kidneys, pus in the lungs, rapid heart, rectal diseases, severe headaches, shortness of breath, sinus disease, sore throat, stomach hemorrhages, stomach trouble, stomach ulcerations, suspected tuberculosis, toxic goiter with ophthalmic symptoms, tuberculosis, tumors, ulcers, virus infection, and weakness in legs and hands.

The labeling of the devices, when taken as a whole, as well as through specific claims, and in the setting in which it was presented, contained also statements which created the following false and misleading impressions: (a) that competent medical treatment of serious diseases, such as diabetes, cancer, heart trouble, tuberculosis, and many others, might be safely discontinued by persons who drank water and ate food treated in the devices; (b) that the shortwave unit of the devices produced an ultra high frequency wave; (c) that the shortwave unit of the devices produced radiation which broke up water molecules in jars of water placed in the devices; (d) that there were no chemical cures for any ailment known to man; (e) that food which was treated in the devices was detoxified and mineralized; and (f) that ordinary tap water which was treated in the devices became a source of substantial amounts of vitamins and minerals.

The labeling of the devices also was false and misleading since it represented and suggested that the devices were invented by William Estep and purported to set forth high lights in William Estep's life portraying him as licensed to practice medicine in the State of Florida and as a renowned scientist and benefactor of mankind, but the labeling failed to reveal the following facts, which were material in the light of such representations, suggestions, and portrayal: (a) that William Estep had been prohibited from practicing medicine in Florida; (b) that William Estep had been convicted and sentenced in Illinois to imprisonment for 3 to 5 years and to pay a fine of \$2,000 for conspiracy to violate the Medical Practice Act, for conspiracy to perpetrate a confidence game, and for conspiracy to obtain money under false pretenses, arising out of his treatment of patients with "atomic water" and various other therapeutic and diagnostic measures, which had been described by the Appellate Court of Illinois as an activity "to deceive and defraud the unfor-

tunate and unwary"; and (c) that William Estep was a fugitive from justice in the State of Illinois.

502 (f) (1)—the labeling of the devices, when shipped and while held for sale, failed to bear adequate directions for use; and 501 (c)—the strength of the devices differed from, and their quality fell below, that which they purported and were represented to possess.

DISPOSITION: 7-28-55 and 11-16-55. Default—delivered to the Food and Drug Administration.

4894. Atomotrone device. (Inj. No. 291.)

COMPLAINT FOR INJUNCTION FILED: 6-14-55, N. Dist. Calif., against Claude O. Martin, Modesto, Calif., who was the holder of a franchise obtained from F. C. Cretcher, McKinney, Tex., for the exclusive distribution in California of a device known as *Atomotrone*.

NATURE OF DEVICE: The device included a kitchen cabinet, sunlamp, shortwave unit, connecting wires, colored glass filters, and 4 1-gallon jars. It purported to be capable of "irradiating" and imparting therapeutic properties to ordinary water and food.

The complaint alleged that the device was incapable of imparting therapeutic properties to water or food, and could not be helpful in any other manner in the treatment or prevention of disease.

NATURE OF BUSINESS: The complaint alleged that the defendant purchased *Atomotrone devices* from F. C. Cretcher and others in Texas; that the devices were transported from Texas, consigned to the defendant at Modesto, Calif.; that the defendant, through his own efforts and through agents, promoted the sale of the devices throughout the State of California; that each purchaser of the device was offered a commission by the defendant for each sale which the purchaser was instrumental in bringing about, thus, in effect, making each purchaser an agent; and that the devices, when introduced into interstate commerce and while held for sale after shipment in interstate commerce, were accompanied by the labeling described below which constituted a part of the distributional scheme to promote the sale of the devices.

ACCOMPANYING LABELING: Pamphlets entitled "The Atomotrone" and "Testimonials by Users of The Atomotrone," pads of forms entitled "Sale Agreement," and individual testimonial letters.

CHARGE: The complaint charged that when the defendant caused the devices to be introduced into interstate commerce and when he received the devices in interstate commerce, the devices were misbranded and adulterated as follows:

502 (a), the labeling of the devices, when taken as a whole as well as through specific claims, and in the setting in which it was presented, contained the following false and misleading representations:

(a) That the devices would provide an adequate and effective treatment for the following conditions: Acidosis, anemia, apoplexy stroke, arthritis, bad health, baldness, blindness, Bright's disease, including chronic Bright's disease, congenital Bright's disease, and incurable Bright's disease, cancer, cardiac paralysis, cataracts, chronic disease, chronic indigestion, colonic cancer, colon spasm, deafness, diabetes, dropsy, eczema, enlarged heart, excessive menstrual bleeding, fibroid tumor of uterus, frequent colds, gallstones, gas, glandular deficiency, goiter, growths in stomach and rectum, hacking cough, heart attack, heart disease (all types), heart trouble, heart valve disease,

hemorrhages, hemorrhoids, high blood pressure, high fevers, hypertension, indigestion, kidney disease, kidney stones, leg pains, low blood pressure, menstrual cramps, nausea, nephritis, nervous exhaustion, nervousness, numbness, pains in abdomen, arms, back, chest, heart, hips, liver, neck, shoulders, and stomach, palpitation of heart, paralysis, paralysis agitans, penicillin poisoning, pernicious anemia, postoperative lack of energy and vitality, pressure around heart, prostatitis, pus in the kidneys, pus in the lungs, rapid heart, rectal diseases, severe headaches, shortness of breath, sinus disease, sore throat, stomach hemorrhages, stomach trouble, stomach ulcerations, suspected tuberculosis, toxic goiter with ophthalmic symptoms, tuberculosis, tumors, ulcers, virus infection, and weakness in legs and hands;

(b) That competent medical treatment of serious diseases, such as diabetes, cancer, heart trouble, tuberculosis, and many others, might be safely discontinued by persons who drank water and ate food treated in the devices;

(c) That the shortwave unit of the devices produced an ultra high frequency wave;

(d) That the shortwave unit of the devices produced radiation which broke up water molecules in jars of water placed in the devices;

(e) That there were no chemical cures for any ailment known to man;

(f) That food which was treated in the devices was detoxified and mineralized; and

(g) That ordinary tap water which was treated in the devices became a source of substantial amounts of vitamins and minerals.

502 (a), the labeling of the devices also was false and misleading since it represented and suggested that the devices were invented by William Estep and purported to set forth high lights in William Estep's life, portraying him as licensed to practice medicine in the State of Florida and as a renowned scientist and benefactor of mankind, but the labeling failed to reveal the following facts, which were material in the light of such representations, suggestions, and portrayal:

(a) That William Estep had been prohibited from practicing medicine in Florida [see *Estep v. State*, 23 So. (2d) 482 (Sup. Ct. Fla., 1945)];

(b) That William Estep had been convicted and sentenced in Illinois to imprisonment for 3 to 5 years and to pay a fine of \$2,000 for conspiracy to violate the Medical Practice Act, for conspiracy to perpetuate a confidence game, and for conspiracy to obtain money under false pretenses, arising out of his treatment of patients with "atomic water" and various other therapeutic and diagnostic measures which have been described by the Appellate Court of Illinois as an activity "to deceive and defraud the unfortunate and unwary" [see *People v. Estep*, 346 App. 132, 138 (Appellate Court, First District, February 11, 1952)]; and

(c) That William Estep was a fugitive from justice in the State of Illinois [see *People v. Estep*, 413 Ill. 437 (Sup. Ct. Ill., November 20, 1952), cert. den. 345 U. S. 970; *Ex parte William Estep*, 276 S. W. (2d) 284 (Texas Ct. of Crim. App., January 5, 1955)].

502 (f) (1), the labeling of the devices failed to bear adequate directions for use; and

501 (c), the strength of the devices differed from, and their quality fell below, that which they purported and were represented to possess.

The complaint alleged also that the defendant caused the devices to become misbranded within the meaning of 502 (a) while held for sale after shipment

in interstate commerce by incorporating into the labeling of the devices testimonial letters which made additional false and misleading therapeutic claims.

DISPOSITION: 6-21-55. The defendant having consented, the court entered a decree of permanent injunction enjoining the defendant from doing any of the following acts with respect to the *Atomotrone devices* or with respect to any similar device or any component, part, or accessory thereof:

1. Causing to be introduced or delivered for introduction into interstate commerce any such article which was misbranded or adulterated as alleged in the complaint;

2. Receiving in interstate commerce and delivering for pay or otherwise any such misbranded or adulterated article; and

3. Causing the association of labeling with any such article, or by making claims for such article, in any other manner while the article was held for sale after shipment in interstate commerce which would result in the article being misbranded or adulterated in any of the alleged respects.

4895. Uranium ore. (F. D. C. No. 37901. S. No. 10-716 M.)

QUANTITY: 8 plastic leather pads, some containing 4 to 5 lbs. and some containing 15 to 20 lbs., of *uranium ore*; a number of hot water btls., each containing 3 lbs., of *uranium ore*; and 175 lbs. of loose *uranium ore* at Sauk City, Wis.

SHIPPED: During August and September 1954, from Edgemont, S. Dak.

RESULTS OF INVESTIGATION: The *uranium ore* was shipped in bulk and, after receipt, it was repacked by Royal A. Dickson, doing business as Gama-Ray Co., Sauk City, Wis.

The ore was represented by Royal A. Dickson, in the course of sales talks given by him at Sauk City, as effective in the treatment of the disease conditions described below. Examination showed that the ore emitted a very small amount of radioactivity.

LIBELED: 3-29-55, W. Dist. Wis.

CHARGE: 502 (f) (1)—the labeling of the article, while held for sale, failed to bear adequate directions for use in the treatment of the diseases and conditions for which it was intended, namely, arthritis, bursitis, and blindness.

DISPOSITION: 5-7-55. Default—delivered to the Food and Drug Administration.

#### DRUGS ACTIONABLE BECAUSE OF CONTAMINATION WITH FILTH

4896. Chamomile flowers. (F. D. C. No. 38285. S. No. 29-415 M.)

QUANTITY: 19 110-lb. bales at New York, N. Y.

SHIPPED: 9-15-54, from Hungary.

LIBELED: 8-22-55, S. Dist. N. Y.

CHARGE: 501 (a) (1)—contained insects while held for sale.

DISPOSITION: 9-12-55. Default—destruction.

4897. Cut dog grass. (F. D. C. No. 38242. S. No. 29-401 M.)

QUANTITY: 2,600 lbs. in 26 bags at New York, N. Y.

SHIPPED: 12-10-52, from Chehalis, Wash.

LIBELED: 7-26-55, S. Dist. N. Y.

CHARGE: 501 (a) (1)—contained insects while held for sale.

DISPOSITION: 8-22-55. Default—destruction.